on behalf of his principal. The conditions precedent to an offence under section 6(a) are proof, *inter alia*, that the person charged was an agent as defined and what he did was in relation to his principal's affairs or business.

Case referred to:-

(1) *Morgan v. Deputy Public Prosecutor* [1970] 3 All E.R. 1053, 1058.

MAGISTRATE'S APPEAL.

J.B. Jeyaretnam for the appellant.

Loke Yoon Kee (Deputy Public Prosecutor) for the respondent.

Cur. Adv. Vult.

Wee Chong Jin C.J.: The appellant, Mohamed Ali bin Mohamed Iqbal, was charged and convicted on the following charges: —

"1. You, Mohamed Ali bin Mohamed Iqbal are charged that you, on or about the 13th day of May 1977, at the Paya Lebar International Airport, Singapore, being an agent, to wit, an Immigration Officer in the employ of the Immigration Department, Ministry of Home Affairs, Singapore, did corruptly obtain from one Noor Mohammed Iqbal Bin A. Rahman for yourself, a gratification of a sum of thirty dollars ($30) as a reward for doing an act in relation to your principal's affairs, to wit, to supply names of tourists and their places of stay to the said Noor Mohammed Iqbal Bin A. Rahman and you have thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104.

2. You, Mohamed Ali bin Mohamed Iqbal are charged that you, on or about the 15th day of May 1977, at the Paya Lebar International Airport, Singapore, being an agent, to wit, an Immigration Officer in the employ of the Immigration Department, Ministry of Home Affairs, Singapore, did corruptly obtain from one Noor Mohammed Iqbal Bin A. Rahman for yourself, a gratification of a sum of twenty dollars ($20) as a reward for doing an act in relation to your principal's affairs, to wit, to supply names of tourists and their places of stay to the said Noor Mohammed Iqbal Bin A. Rahman and you have thereby committed an offence punishable under section 6(a) of the Prevention of Corruption Act, Chapter 104."

He now appeals against his convictions. The undisputed facts are these. The appellant was an Immigration Officer attached to the Singapore Airport at all material times. His duties included the checking of incoming passengers' passports and their Disembarkation Forms (known as Immigration Form 23) which incoming passengers had to fill up. Each completed form contains, *inter alia*, the name, place of stay and duration of stay of each incoming passenger. It was also his duty to collect all the completed Disembarkation Forms from the various counters and sort them out in accordance with flights. The information contained in these forms was for survey and security purposes. There was a standing instruction to all Immigration Officers that the information contained in these forms could not be divulged to members of the public.

On May 13, 1977 and May 15, 1977 the appellant, in the Airport gentlemen's toilet room, handed to Noor Mohammed Iqbal bin A. Rahman, a sales promotion officer employed by Premier Shopping Centre, two lists containing the names of incoming tourists, their flight numbers showing the countries of origin of the flights and the names of hotels they would be staying in whilst in Singapore. The appellant was paid a sum of $30 and a sum of $20 by Noor Mohammed Iqbal for these two lists containing the aforesaid information which the appellant had copied from the Disembarkation Forms he had collected on the evening of May 12 and 14 respectively.

On these facts, the appellant, having elected to remain silent, was convicted and fined $1,000 on each charge. He now appeals against his convictions. It is contended on his behalf that the acts of the appellant in handing to the tourist tout the two lists containing the information which he had copied from the Disembarkation Forms were not acts done by him in relation to his principal's affairs and that accordingly he had been wrongly convicted under section 6(a) of the Prevention of Corruption Act. The argument is that the appellant's acts, namely copying the information contained in the Disembarkation Forms and passing the information to a third party who had no dealings with the appellant's principal, the Government, could not amount to acts done by the appellant in relation to his principal's affairs. It is said that what the appellant did was something wholly outside the affairs or business of his principal. This argument is clearly unsound.

Section 6(a) of the Prevention of Corruption Act makes it an offence "if any agent corruptly ... accepts ... from any person for himself ... any gratification as an ... reward for doing ... any act in relation to his principal's affairs or business...". The Act defines "agent" to mean "any person employed .. by another, and includes a person serving the Government...", and defines "principal" to include "an employer ... and in the case of a person serving the Government ... includes the Government". On the proved facts, which were not in dispute, the appellant was an agent and the acts that he did were clearly in relation to his principal's affairs. It is settled law by now that the words "in relation to his principal's affairs" fall to be widely construed. In my opinion, for a conviction under section 6(a) it need not be proved that the acts done by a person were done by him as agent on behalf of his principal. The conditions precedent to an offence under section 6(a) are proof, *inter alia*, that the person charged was an agent as defined and that what he did was in relation to his principal's affairs or business (see *Morgan* v. *Deputy Public Prosecutor*[1]).

In those circumstances I am of the opinion that this appeal must be dismissed and the sentence affirmed.

Appeal dismissed.

Solicitors: *J.B. Jeyaretnam & Co.*

RE PENTASIA (PTE.) LTD.

[O.C.J. (Sinnathuray J.) March 5, 1979]
[Singapore — Companies Winding Up No. 137 of 1978]

Companies — Winding-up — Adjournment — Request for fourth adjournment — Partial payment of debt by company nearly 5 months after presentation of petition — Court's discretion to refuse adjournment — Companies Winding-Up Rules, 1969, rr. 23, 24, 25, 31 & 32 — Companies Act (Cap. 185), ss. 219(2) and 221.

The petition for the winding up of Pentasia (Pte.) Ltd. was presented at the Registry on August 30, 1978. The petition was fixed for hearing on September 29, 1978. Since then it was adjourned thrice. On January 12, 1979 the petitioner applied for another adjournment stating that the proceedings had been withheld at the request of the said company. He said that the company had paid $7,000 and that another cheque for $3,000 was awaiting to be cleared. Counsel for the plaintiff said that he was mentioning on behalf of counsel for the company who was absent. The facts showed that $10,000 of $86,576.65 had been paid nearly five months after the presentation of the petition.

Held: (1) to put into motion the machinery for winding-up, not to obtain an order for winding-up, but to exert pressure on the company to settle its debt, is an abuse of the procedure;

(2) except for a short adjournment to remedy technical matters relating to a petition, any other adjournment must be an exception rather than the rule as it will be prejudicial to the company. It is therefore imperative that the winding-up of a company which cannot pay its debts must be seriously weighed, and once proceedings are commenced they must be prosecuted expeditiously.

Case referred to:-

(1) *Re Chapel House Colliery Co.* (1883) 24 Ch. D. 259.

COMPANIES WINDING-UP.

Tan Bar Tien for the petitioning creditor.

T.V. Sukumar for the debtor/company (*Tan Bar Tien* mentioning for him).

Harith Kassim (Assistant Official Assignee) for the Official Assignee.

Sinnathuray J.: This petition for the winding-up of Pentasia (Private) Limited (the Company) was presented at the Registry on 30th of August 1978. Under Rule 23 of the Companies (Winding-Up) Rules, 1969 (the Rules), the Registrar appointed 29th of September 1978 for the hearing of it.

Thereafter, the petition has not been advertised as required under Rule 24 of the Rules. The affidavit of service of the petition upon the Company under Rule 25 of the Rules has not been filed. The consent in writing of the Official Receiver that he be appointed liquidator has also not been filed, a requirement under Rule 31(2) of the Rules. Finally, the solicitor for the petitioning creditor has not complied with Rule 32 of the Rules which requires his attendance before the Registrar to satisfy him on material matters relating to the petition before the hearing date.

Notwithstanding the defects set out, the petition came on for hearing on the appointed date, 29th of September 1978. It was adjourned for four weeks. On 27th of October 1978, it was adjourned for one week. Then, on 3rd of November 1978, it was adjourned to the first Friday after the Court Vacation. On 12th of January 1979 when the petition was before me, there was yet another application for an adjournment.

At that hearing, counsel for the petitioning creditor, who applied for the adjournment, said that the proceedings had been withheld at the request of the Company. He went on to say that the Company had made payment of $7,000, and that another cheque for $3,000 was awaiting to be cleared. Counsel also said that he was mentioning the petition on behalf of counsel for the Company who was absent.

It is to be seen from the petition that the Company is indebted to the petitioning creditor for goods sold and delivered in the sum of $86,576.65. The ground for the winding-up of the Company is that it is insolvent and unable to pay its debts. It is therefore not unreasonable to aver in the petition that it is just and equitable that the Company be wound up. But, having moved the court, what has the petitioning creditor done?

On the facts outlined, it is clear that the petitioning creditor has taken no steps to proceed with the petition with due diligence. Further, an application for adjournment on the ground that $10,000 of the $86,576.65 has been paid by the Company nearly five months after the presentation of the petition is to use the provisions of the Companies Act (and the Rules) for a purpose not intended by the Legislature. To put into motion the machinery for winding-up, not to obtain an order for winding-up, but to exert pressure on the Company to settle its debt, is an abuse of the procedure.

A petition for the winding-up of a company is a grave matter for the Company and for those who have dealings with the Company. Section 219(2) of the Companies Act provides that commencement of winding-up by the court "shall be deemed to have commenced at the time of the presentation of the petition for the winding-up". The sections that follow spell out important consequences that affect a variety of matters. Some of them are that creditors are deprived of their remedies against the company; all actions by and against the Company come to a standstill; and, any disposition of property including any transfer of shares or alterations of the status of members of the Company is terminated. The cumulative effect is that a company, upon a petition for winding-up presented against it, cannot carry on business as outsiders will be reluctant to have dealings with it. It is because of these effects that section 221(1) of the Companies Act and Rule 32(2) of the Rules provide that on the hearing of a winding-up petition the court may either dismiss it or adjourn it conditionally or unconditionally.

Now, as regards an adjournment it is at the discretion of the court. Having regard to the foregoing, I am of the view that except for a short adjournment to remedy technical matters relating to a petition, any other adjournment must be an exception rather than the rule as it will be prejudicial to the company. (See: *Re Chapel House Colliery Co.*[1] *per* Cotton L.J. at p. 268). It is therefore imperative that the winding-up of a company which cannot pay its debts must be seriously weighed, and once proceedings are commenced they must be prosecuted expeditiously.

For the reasons I have given I refused the application for an adjournment of the petition. It was dismissed.

Application dismissed.

Solicitors: *Boey, Ng & Wan; Sukumar & Teo.*